

**SUMMARY REPORT OF INVESTIGATION<sup>1</sup>****I. EXECUTIVE SUMMARY**

Date of Incident:	April 21, 2016
Time of Incident:	12:25 AM
Location of Incident:	XXXX E. 72 <sup>nd</sup> St.
Date of COPA Notification:	June 6, 2016
Time of COPA Notification:	7:57 AM

On April 21, 2016, the complainant, Involved Individual 1, was arrested for aggravated battery to a peace officer, violating an order of protection, resisting a peace officer, and domestic battery. Involved Individual 1 alleged that the arresting officers, Officer A and Officer B, used excessive force. After reviewing available Department reports, interviewing Involved Individual 1, and interviewing the accused officers, COPA determined the allegations are Not Sustained.

**II. INVOLVED PARTIES**

Involved Officer #1:	Officer A, Star #XXXX, Employee ID #XXXX, Date of Appointment: XXXXXX XX, 2014, Police Officer Assigned as Field Training Officer, 1 <sup>st</sup> District, Date of Birth: XXXXXX XX, 1981, Male, White
Involved Officer #2:	Officer B, Star #XXXX, Employee ID #XXXX, Date of Appointment: XXXXXX XX, 2013, Police Officer, Unit XXX (Bureau of Patrol – Area Central), Date of Birth: XXXXXX XX, 1988, Male, Hispanic
Involved Individual #1:	Involved Individual 1, Date of Birth: XXXXXX XX, 1980, Male, Black

**III. ALLEGATIONS**

Officer	Allegation	Finding
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<sup>1</sup> On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

Officer A	<p>1. Used excessive force while arresting Involved Individual 1 in the form of kicks, knees, stomps, and putting his head in a puddle, in violation of Rule 6 and Rule 9.</p> <p>2. Provided a false report that Involved Individual 1 fought with the arresting officers, in violation of Rule 14.</p>	<p>Unfounded</p> <p>Unfounded</p>
Officer B	<p>1. Used excessive force while arresting Involved Individual 1 in the form of kicks, knees, stomps, and putting his head in a puddle, in violation of Rule 6 and Rule 9.</p> <p>2. Provided a false report that Involved Individual 1 fought with the arresting officers, in violation of Rule 14.</p>	<p>Unfounded</p> <p>Unfounded</p>

#### IV. APPLICABLE RULES AND LAWS

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##### Rules

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- Rule 6:** Prohibits disobedience of an order or directive, whether written or oral.
- Rule 9:** Prohibits engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
- Rule 14:** Prohibits making a false report, written or oral.

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##### General Orders

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- G03-02-01:** The Use of Force Model.<sup>2</sup>
- G03-02-02:** Force Options.<sup>3</sup>

#### V. INVESTIGATION<sup>4</sup>

##### a. Interviews

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<sup>2</sup> The Use of Force Model referenced in this report was the effective policy from May 2012 until October 2017 (Att. 54).

<sup>3</sup> The Force Options policy reference in this report was effective from January 2016 until October 2017 (Att. 55).

<sup>4</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

Involved Individual 1 submitted an undated letter to the CPD Bureau of Internal Affairs.<sup>5</sup> Involved Individual 1 wrote that on April 21, 2016, he was walking home when officers stopped and questioned him about an argument he had with his girlfriend. Involved Individual 1 admitted he ran from the police. However, when he was face down on the ground he was not resisting, and an officer stepped on the back of his left leg and the right side of his torso. This caused deep cuts on Involved Individual 1's body and he was taken to Hospital 1.

COPA interviewed **Involved Individual 1** on July 11, 2018.<sup>6</sup> On April 21, 2016, he got into a fight with his off-and-on girlfriend, Civilian 1. Civilian 1 had called Involved Individual 1 to get food at a Maxwell Street restaurant at 71<sup>st</sup> and State. They got into an altercation at the restaurant. Civilian 1 had an order of protection against Involved Individual 1 and she called the police. Involved Individual 1 left the restaurant and was near 72<sup>nd</sup> and Michigan when he saw Civilian 1 with police in a squad car. Involved Individual 1 knew he was violating an order of protection so he ran. Involved Individual 1 tripped and ended up face down on the ground.

While he was on the ground, the police caught Involved Individual 1 and began "stomping and kicking" him on his legs and ribs, pushing his head into water, and "dropping" their knees on him.<sup>7</sup> Involved Individual 1 stated that an officer used his knee in Involved Individual 1 back and both hands on the back on Involved Individual 1's head to push Involved Individual 1 head into a puddle about two inches deep. Involved Individual 1 was not afraid of drowning and stated that the puddle happened to be where he fell. Involved Individual 1 did not know which officer did which actions, but recalled one officer held him down while the officer stomped Involved Individual 1's legs. Involved Individual 1 elaborated that officers were using kicks and knees and also punched him. Involved Individual 1 recalled it was lightly raining during this incident, or had just stopped raining. Involved Individual 1 allowed the officers to place him into handcuffs. Involved Individual 1 denied resisting arrest, rolling, striking an officer, pulling his arms away, or fighting with the officers. Involved Individual 1 believed the passenger officer placed him in handcuffs, behind his body. Involved Individual 1 stated that the passenger officer told him the officer could have shot Involved Individual 1. Involved Individual 1 believed Civilian 1 was in the back of the squad car during his arrest. The squad car was parked at one end of the alley and Involved Individual 1 was arrested at the other end. No other witnesses were present, either civilian or police.<sup>8</sup> Involved Individual 1 admitted to drinking about a pint of vodka prior to his arrest. A different officer (not an arresting officer) transported Involved Individual 1 after his arrest.

Involved Individual 1 asked to go to the hospital while in lock-up because his legs were bleeding. At Hospital 1, staff treated his cuts and gave him pain pills. He did not get stitches. Involved Individual 1 did not recall being placed under close observation at the police station and did not know why he would have been. Involved Individual 1 admitted he violated his order of protection but denied the remaining charges. Involved Individual 1 pleaded guilty to aggravated battery to a peace officer because he wanted to leave jail instead of staying there for an extended period.

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<sup>5</sup> Att. 18

<sup>6</sup> Att. 38

<sup>7</sup> Approximately 2:45 minute mark of Att. 38.

<sup>8</sup> Involved Individual 1 did not have a number or address of contact for Civilian 1. However, he stated he sees her occasionally and would tell her to contact COPA. As of this report, COPA has not heard from Civilian 1.

**Officer A** was interviewed by COPA on July 27, 2018.<sup>9</sup> On April 21, 2016, he was partnered with Officer B. The officers responded to a call of a domestic battery at a fast food restaurant. When the officers arrived, the victim (known to be Civilian 1) was “badly beaten,” and Involved Individual 1 had left.<sup>10</sup> The officers gave Civilian 1 a ride home, during which Civilian 1 pointed out Involved Individual 1 walking through an alley. The officers tried to stop Involved Individual 1, but he ran off. Officer B ran after Involved Individual 1, followed by Officer A. The officers told Involved Individual 1 to stop and after about half a block, Involved Individual 1 fell and slid into a street.

The officers caught up with Involved Individual 1 after he fell. Officer B held Involved Individual 1 face down on the ground until Officer A caught up. Officer A related it was raining heavily during this incident. Officer A did not recall Involved Individual 1 being in a puddle. Per Officer A, it was raining and would have been unintentional if Involved Individual 1 was in a puddle. Once the officers caught Involved Individual 1, they tried to handcuff him. Involved Individual 1 initially struggled with the officers, pulled his arms away, ignored verbal commands, and was combative. Officer A specified that Involved Individual 1 was “throwing his elbows” and struck both officers.<sup>11</sup> Both officers tried to get control of each of Involved Individual 1’s arm. Officer A denied that either officer used force to detain Involved Individual 1, aside from handcuffing him. Officer A denied stomping or kicking Involved Individual 1. Officer A reported trying to control Involved Individual 1 and may have used his arms and legs to hold Involved Individual 1 down. The officers eventually handcuffed Involved Individual 1, at which point he became compliant. The officers called for a transport unit since Civilian 1 was in their vehicle. At the police station Involved Individual 1 complained about scratches and was taken to the hospital.

**Officer B** was interviewed by COPA on August 2, 2018.<sup>12</sup> On April 21, 2016, he and Officer A responded to a domestic battery call. The officers met the victim (known to be Civilian 1) and she had visible injuries. The officers offered Civilian 1 a ride home. During the ride, Civilian 1 pointed out Involved Individual 1 walking down an alley. The officers exited the vehicle, at which point Involved Individual 1 fled down the alley. The officers pursued Involved Individual 1 on foot and told him to stop for about half a block. Near the end of the alley, Involved Individual 1 slipped and fell face forward into the street.

The officers caught up with Involved Individual 1 and told him he was under arrest. Per Officer B, Involved Individual 1 rolled over and was on his back when the officers caught up with him. The officers tried to handcuff Involved Individual 1. Involved Individual 1 actively resisted by rolling on the ground and flailing his arms. Officer B recalled that Involved Individual 1 wound one arm up across his body and, with his elbow, struck Officer A in the leg. Officer B used a wrist lock and an armbar, and the officers eventually placed Involved Individual 1 into handcuffs. Officer B related that the armbar controlled Involved Individual 1’s arms while trying to cuff him. Officer B denied doing anything to restrain Involved Individual 1’s legs. Officer B denied stomping or kicking Involved Individual 1 or using any physical force, aside from the armbar and

<sup>9</sup> Att. 44

<sup>10</sup> Approximately 7:25 minute mark of Att. 44.

<sup>11</sup> Approximately 10:23 minute mark of Att. 44.

<sup>12</sup> Att. 49

wrist lock. Officer B related there was a steady downpour of rain during the incident. Officer B did not recall a puddle near where Involved Individual 1 fell. Officer B denied pushing Involved Individual 1's head at all, including into a puddle.

After Involved Individual 1 was handcuffed, the officers called for a transport unit for Involved Individual 1 because Civilian 1 was in their police car. Once at the police station, the officers processed Involved Individual 1. Involved Individual 1 told the officers he needed medical attention, which the officers provided. Officer B believed Involved Individual 1 had an abrasion on his side from falling. Officer B did not recall why Involved Individual 1 was placed under close observation at the police station, but it may have been because of Involved Individual 1's violent behavior.

#### **b. Digital Evidence**

**CPD Evidence Technician** photographs were obtained of Officer B, Officer A, and Civilian 1 related to **RD #XXXXXXX**.<sup>13</sup> Civilian 1's face, hand, and head were bleeding. No obvious injuries were seen on either officer. Similar details were reported in the associated CPD Crime Scene Processing Report for **RD #XXXXXXX**.<sup>14</sup>

#### **c. Physical Evidence**

**Involved Individual 1's medical records** were obtained from his April 21, 2016 admission to Hospital 1.<sup>15</sup> Involved Individual 1 arrived at the hospital at approximately 1:42 AM. Involved Individual 1's admission diagnosis was an assault and abrasion. Involved Individual 1 told hospital staff he had been in an altercation with the police, in which he was thrown onto cement and injured his left knee, right flank, and left shoulder. Involved Individual 1 was prescribed 600 milligrams of ibuprofen and discharged to CPD custody at approximately 3:30 AM.

#### **d. Documentary Evidence**

According to Involved Individual 1's April 21, 2016 **Arrest Report** with **RD #XXXXXXX**, Involved Individual 1 was arrested for aggravated battery to a peace officer, violating an order/prior domestic battery, resisting/obstructing a peace officer, and domestic battery – bodily harm.<sup>16</sup> Involved Individual 1 was arrested on signed complaints from his girlfriend, Civilian 1, after he struck her "about the face and head with [...] closed fists."<sup>17</sup> Officers A and Officer B "toured the area with the victim and located the offender walking northbound." Involved Individual 1 fled through an alley while the officers pursued on foot. Involved Individual 1 "slipped on the grass and fell forward onto the pavement in the street." When the officers attempted to place Involved Individual 1 into custody, he "was rolling around and flailing his arms while pulling away in an attempt to escape." Involved Individual 1 then struck Officer A in the right thigh. Once the officers subdued and arrested Involved Individual 1, he was transported to the 3<sup>rd</sup> District.

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<sup>13</sup> Att. 11

<sup>14</sup> Atts. 12, 27, 28, 29

<sup>15</sup> Atts.14, 23

<sup>16</sup> Att. 4

<sup>17</sup> Civilian 1's first name is alternately spelled " " in Department reports.

Involved Individual 1 was later taken to Hospital 1 and then back to the 3<sup>rd</sup> District. Officers A and B also reported injuries. Per this report, Involved Individual 1 was a “self-admitted Organization 1 member.” Involved Individual 1 was “Placed under close observation” while in the 3<sup>rd</sup> District Lockup.

A Detective Supplementary Report was located for **RD #XXXXXX**.<sup>18</sup> Civilian 1 sustained injuries to her nose. Officer A had a bruised, red, swollen right thigh. Officer B sustained a red, swollen left knee. The reporting detective, Detective A, spoke with Civilian 1 on April 21, 2016 at approximately 12:50 PM. Civilian 1 and Involved Individual 1 were arguing about money, she broke up with him, and Involved Individual 1 hit her. Later that day, both Civilian 1 and Involved Individual 1 were at a fast food restaurant and got into an argument. Involved Individual 1 then assaulted Civilian 1, causing her head to hit the ground. Officers responded, and Civilian 1 went in their car to look for Involved Individual 1. Once they saw Involved Individual 1, he was arrested even though Civilian 1 did not want him arrested. Detective A then spoke with Involved Individual 1 who related he and Civilian 1 were waiting for food at a hotdog stand when Civilian 1 started a physical fight with Involved Individual 1. Involved Individual 1 walked out of the restaurant and saw the police following him. Involved Individual 1 ran before he was thrown to the ground and handcuffed. Involved Individual 1 denied fighting with the police. Involved Individual 1 claimed Civilian 1 had sustained her injuries earlier and that was what the fight was about. Officer A told the detective that Involved Individual 1 slipped on wet grass and fell onto pavement. When the officers tried to handcuff Involved Individual 1, he began moving and pulling away his arms. Involved Individual 1 eventually balled his fist and hit Officer A in the right thigh with his elbow. A witness, Civilian 2, told Detective A that Civilian 1 and Involved Individual 1 were both hitting each other. After obtaining surveillance video from the fast food restaurant, Involved Individual 1 admitted to the detective that he hit Civilian 1. Involved Individual 1 also reportedly told Assistant State’s Attorney 1 that he ran from the police, fell, and he was “guilty of all this.”

**Original Case Incident Reports** and a **Case Supplementary Report** were obtained for **RD #XXXXXX**.<sup>19</sup> No further pertinent information was in these reports.

Officer A completed an **Officer’s Battery Report** (OBR) following the April 21, 2016 incident with Involved Individual 1.<sup>20</sup> Officer A reported that Involved Individual 1 caused the officer minor, non-fatal injuries with his hands/fists. The officer stated Involved Individual 1 fell while fleeing from the police. Officer A also completed a **Tactical Response Report** (TRR) following this incident.<sup>21</sup> Involved Individual 1 appeared to be under the influence, was swinging his arms, and struck the officer. Involved Individual 1 was also running from the officers, slipped on wet grass, and fell forward onto the pavement. Officer A responded with member presence, verbal commands, wristlock, armbar, and an emergency takedown. The weather was reported as rainy. Involved Individual 1 reportedly told Lieutenant A that he had a “couple cocktails” before running from the police and falling. Involved Individual 1 told the lieutenant that the police

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<sup>18</sup> Att. 35

<sup>19</sup> Atts. 19, 20, 21

<sup>20</sup> Att. 7

<sup>21</sup> Att. 8

“jumped” on him. Similarly, a **TRR** was identified from Officer B.<sup>22</sup> Officer B’s was similar to Officer A’s with no additional, relevant information.

#### e. Additional Evidence

The **docket for Case Number XXXXXXXXX** was located in the Cook County Circuit Court following Involved Individual 1’s April 21, 2016 arrest.<sup>23</sup> Involved Individual 1 was charged with four felony counts: one for aggravated battery to a peace officer, one violating an order or protection, and two for resist/peace officer/corrections employee/firefighter. On July 7, 2016, a finding of nolle prosequi was entered for all but aggravated battery to a peace officer, to which Involved Individual 1 pleaded guilty on this same date. Involved Individual 1 was sentenced to 30 months of probation and 90 days in the Cook County Department of Corrections, with 78 days of credit for time served. A violation of probation was entered on October 5, 2016, to which Involved Individual 1 pleaded guilty and was sentenced to 120 days in the Cook County Department of Corrections, with 37 days of credit for time served. This case was taken off call on January 4, 2017.

### VI. ANALYSIS

Allegation 1 against Officer B and Officer A, that they used excessive force while arresting Involved Individual 1 in the form of kicks, knees, stomps, and putting his head in a puddle, and Allegation 2, that they provided a false report that Involved Individual 1 fought with the arresting officers, are both **Unfounded**. The narratives provided by both officers and by Involved Individual 1 were all substantially similar, with one glaring exception that Involved Individual 1 fought the officers. All three parties recalled that Involved Individual 1 slipped and fell before the officers caught up with him. However, this is where the versions differ. The officers reported Involved Individual 1 resisted arrest, elbowed Officer A, and was flailing. Involved Individual 1 stated he complied, allowed the officers to handcuff him, and did not resist. Both officers denied using any force, aside from control techniques handcuff Involved Individual 1. Involved Individual 1, however, stated the officers were stomping, kicking, and kneeing him, in addition to pushing his head into water. Detectives reports memorialize a third-party witness who stated both Involved Individual 1 and the officers were fighting.

Without the benefit of video, this case boils down to the officers’ words versus Involved Individual 1. The officers account was consistent from the arrest report, the detectives report, and witness statements. COPA find the officers credible. However, we find Involved Individual 1 not credible. Medical records do not necessarily corroborate Involved Individual 1 claim. Further, Involved Individual 1 reported he drank alcohol earlier - which likely affected his ability to recall details. Moreover, Involved Individual 1 denied ever hitting the victim but was confronted by the video by CPD. When giving his COPA statement, he stated that the only charge he committed was violating the order of protection again denying his culpability for domestic battery, however he subsequently pleaded to aggravated battery to a police officer. Therefore, Involved Individual 1’s credibility is irreparably damaged. COPA finds that Involved Individual 1 resisted arrest, the officers used some force to secure him and no more. therefore, both allegations are **Unfounded**.

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<sup>22</sup> Att. 22

<sup>23</sup> Att. 36

## VII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding
Officer A	1. Used excessive force while arresting Involved Individual 1 in the form of kicks, knees, stomps, and putting his head in a puddle, in violation of Rule 6 and Rule 9.	Unfounded
	2. Provided a false report that Involved Individual 1 fought with the arresting officers, in violation of Rule 14.	Unfounded
Officer B	1. Used excessive force while arresting Involved Individual 1 in the form of kicks, knees, stomps, and putting his head in a puddle, in violation of Rule 6 and Rule 9.	Unfounded
	2. Provided a false report that Involved Individual 1 fought with the arresting officers, in violation of Rule 14.	Unfounded

Approved:

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*Deputy Chief Administrator – Chief Investigator*

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Date

**Appendix A**

## Assigned Investigative Staff

<b>Squad#:</b>	X
<b>Investigator:</b>	Investigator 1
<b>Supervising Investigator:</b>	Supervising Investigator 1
<b>Deputy Chief Administrator:</b>	Deputy Chief Administrator 1